

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

Con.Case (C).No.58 of 2014 (S)

ORDER DATED 20.11.2013 IN WP(C) 28485/2013.

PETITIONER/PETITIONER IN WP(C):

**ALAM SAIT,TC 48/563(11),NO.25,NATIONAL NAGAR,
AMBALATHARA WARD,MANACAUD P.O.,
THIRUVANANTHAPURAM.**

**BY ADVS.SMT.AYSHA YOUSEFF
SMT.MOLLY JACOB
SMT.RABIA BEEGAM T.K.
SRI.JOBI.A.THAMPI
SMT.M.KABANI DINESH**

RESPONDENTS/ADDITIONAL RESPONDENTS IN WP(C):

- 1. SHRI.VENKATESA PATHI,(AGE AND FATHER'S NAME NOT KNOWN),
SECRETARY,THIRUVANANTHAPURAM CORPORATION,
LBS VELLAYAMBALAM,THIRUVANANTHAPURAM - 695 010.**
- 2. SMT.ADV.CHANDRIKA K.,(AGE & FATHER/HUSBAND'S NAME
NOT KNOWN),MAYOR,THIRUVANANTHAPURAM CORPORATION,
LBS VELLAYAMBALAM,THIRUVANANTHAPURAM - 695 010.**
- 3. SHRI ANAND RAJ,(AGE AND FATHER'S NAME NOT KNOWN),
EXECUTIVE ENGINEER,HOLDING CHARGE OF SUPERINTENDING
ENGINEER,THIRUVANANTHAPURAM CORPORATION,
LBS VELLAYAMBALAM,THIRUVANANTHAPURAM - 695 010.**

**R1 BY SRI.N.NANDAKUMARA MENON (SENIOR ADVOCATE.)
R2 & R3 BY SRI.P.K.MANOJKUMAR,SC,TVPM CORPORATION**

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 09-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1:TRUE COPY OF THE AGREEMENT DATED 4.3.2013 BETWEEN THE NATIONAL NAGAR RESIDENTS ASSOCIATION AND THE PETITIONER in the PRESENCE OF THE OMBUDSMAN.

ANNEXURE 1(a):TRUE COPY OF THE ORDER OF THE OMBUDSMAN DATED 4.3.2013.

ANNEXURE 1(b):TRUE COPY OF THE ORDER DATED 7.10.2013 OF THE CHAIR PERSON,HUMAN RIGHTS COMMISSION.

ANNEXURE 2:PHOTO COPY OF THE PHOTOGRAPHS SHOWING THE NEW OUTLET CONSTRUCTED BY THE PETITIONER AND METALS BROUGHT TO THE SITE FOR DEVELOPMENT OF THE ROAD.

ANNEXURE 3:TRUE COPY OF THE INTERIM ORDER DATED 20.11.2013 PASSED BY THE HONOURABLE HIGH COURT OF KERALA.

ANNEXURE 4:TRUE COPY OF THE ORDER EXTENDING THE INTERIM ORDER DATED 20.12.2013.

ANNEXURE 5:TRUE COPY OF THE LETTER DATED 21.11.2013 FORWARDING THE INTERIM ORDER TO THE 1ST RESPONDENT.

ANNEXURE 6:TRUE COPY OF THE LETTER DATED 26.11.2013 OF THE ASST.EXECUTIVE ENGINEER OF THE CORPORATION INFORMING ABOUT THE PROGRESS OF THE DEVELOPMENT WORK.

ANNEXURE 7:TRUE COPY OF THE LETTER DATED 13.12.2013 ADDRESSED BY THE PETITIONER TO THE CORPORATION WITH COPY TO RESPONDENTS 1 TO 3.

ANNEXURE 8:TRUE COPY OF THE REPRESENTATION DATED 20.12.2013 OF THE PETITIONER SUBMITTED TO THE 1ST RESPONDENT.

ANNEXURE 9:PHOTO COPY OF THE PHOTOGRAPHS SHOWING HOW THE ROAD IS DEVELOPED BY THE RESPONDENTS IN TOTAL DISREGARD OF THE ORDERS OF THIS HONOURABLE COURT MAKING IT AS A MOCKERY IN THE EYE OF THE PUBLIC.

ANNEXURE 10:PHOTOGRAPH SHOWING THE STAGNATION OF WATER IN THE PROPERTY OF THE PETITIONER AND IN THE SPACE LEFT WITHOUT TARRING CLOSE TO THIS COMPOUNDWALL.

ANNEXURE 11:PHOTOGRAPH SHOWING THE CONDITION OF THE ROAD BEFORE LEVELIONG AND TARRING OF THE NATIONAL NAGAR BY-LANE.

ANNEXURE 12:PHOTO COPY OF THE REPRESENTATION DATED 3.3.2014 SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY OF THE TRIVANDRUM CORORATION.

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**ANNEXURE 13:PHOTO COPY OF THE REPRESENTATION DATED 3.3.2014
SUBMITTED BY THE PETITIONER BEFORE THE SUPERINTENDING
ENGINEER OF THE TRIVANDRUM CORPORATION.**

**ANNEXURE 14:PHOTO COPY OF THE GO (RT) NO.5869/2011 DMD
DATED 9.12.2011.**

**ANNEXURE 15:PHOTOGRAPH SHOWING THE FLOW OF WATER IN TO PROPERTY
OF THE PETITIONER THROUGH THE OUTLET.**

**ANNEXURE 16:PHOTOGRAPHS SHOWING THE STAGNATION OF WATER IN THE
PROPERTY OF THE PETITIONER.**

**ANNEXURE 17:TRUE COPY OF THE REPRESENTATION DATED 5.8.2014 ALONG
WITH THE RECEIPT ACKNOWLEDGING THE SAME.**

**ANNEXURE 18:PHOTOCOPY OF THE REPRESENTATION DATED 4.12.2014
SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY,
THIRUVANANTHAPURAM CORPORATION.**

ADDITIONAL ANNEXURES:

**ANNEXURE 1:THE PHOTOSTAT COPY OF THE REPORT PREPARED BY THE
CORPORATION NO.CC NO.58/2014 WPC 28485/13 DATED 18.8.2014
ISSUED BY THE SECRETARY,CORPORATION OF TRIVANDRUM.**

**ANNEXURE 1(a):THE PHOTOSTAT COPY OF THE DRAIN CONSTRUCTED BY THE
CORPORATION DATED 18.8.2014, ISSUED BY THE ASSISTANT
EXECUTIVE ENGINEER.**

RESPONDENT'S ANNEXURES:

**ANNEXURE R1(a):THE PHOTOGRAPH OF THE SHOWING THE OUTLET
CONSTRUCTED BY THE PETITIONER BY FIXING A PIPE BY
PUTTING HOLE IN THE COMPOUND WALL OF PROPERTY.**

**ANNEXURE R1(b):THE PHOTOGRAPH OF THE SHOWING THE TARRED PORTION
OF THE ROAD AND ALSO THE DRAIN FORMED BY THE
CORPORATION BY LEAVING ENOUGH SPACE ALONG SIDE THE
ROAD FOR THE RAIN WATER TO FLOW OUT FROM THE PROPERTY
OF THE PETITIONER THROUGH THE OUT LET MADE BY THE
PETITIONER.**

**ANNEXURE R1(c):THE PHOTOGRAPH OF THE SHOWING THE THICKNESS OF
THE TARRING WORK CARRIED OUT AND ALSO THE SPACE LEFT
UNTOUCHED WHILE TARRING, FOR THE WATER TO FLOW FROM
THE HOUSE COMPOUND OF THE PETITIONER TO REACH THE
MAIN ROAD.**

//TRUE COPY//

P.S TO JUDGE

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K.SURENDRA MOHAN, J.

Contempt Case (C) No.58 of 2014-S

Dated this the 9th day of January, 2015

J U D G M E N T

This contempt case is filed by the petitioner on the allegation that, the respondents have violated the interim order dated 20.12.2013 passed by this Court in W.P.(C) No.28485 of 2013. The complaint of the petitioner in the writ petition is that, the respondents were about to raise the level of the road to which the property of the petitioner was abutting and that, the said work would result in flooding of his property with waste water. The petitioner alleges that, in violation of the interim order of this Court, works had been undertaken by the respondent raising the level of the road and causing the flooding of his property. Annexure A10 photograph has been produced in support of the contention that, the property of the petitioner actually remains flooded now. In the wake of the objections of the petitioner to the work undertaken by the respondents,

rectification works were done as stated in the additional statement filed by the first respondent on 30.08.2014. According to the respondents, an open drain has been constructed for the purpose of draining out the waste water and ensuring that, there was no flooding of the petitioner's property.

The petitioner however has not been satisfied with the rectification works undertaken also. Annexure P15 and P16 photographs have been produced to contend that, even after the rectification works, there has been flooding of the petitioner's property for the reason that, the pipes fixed for drawing out the water are at a higher level. The petitioner had also offered to undertake further rectification works at his expense. The standing counsel for the respondent Corporation submits that, the condition stipulated by the petitioner for undertaking such additional works was that, a separate drain would be constructed for the flow of water from his property alone which if permitted, would reduce the width of the road itself.

Having heard the counsel appearing for the respective

parties, I am of opinion that in the nature of the contentions put forward, the petitioner would have to seek further directions in the writ petition that is still pending. Immediately on realizing that the works undertaken by the respondents had effected flooding of the petitioner's property, the respondents had undertaken rectification works, incurring expenditure. The conduct of the respondents in undertaking the rectification works shows that, there was no wilful neglect on their part in complying with the interim order of this Court. It is true that the petitioner is not satisfied with the outcome of the rectification works. In view of the above, I do not find any grounds to pursue this contempt case further.

This contempt case is closed without prejudice to the rights of the petitioner to seek further orders in the writ petition for the purpose of effectuating the interim direction already issued.

Sd/-
K.SURENDRA MOHAN,
JUDGE